

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 31**

Introduced by Schrock, 38

Read first time January 9, 2003

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to water; to amend sections 46-606, 46-1233.01,  
2 71-5301, 71-5303, 71-5304, and 71-5309, Revised Statutes  
3 Supplement, 2002; to change provisions relating to water  
4 well seals, water well registration fees, public water  
5 systems, and public water system operators; to define a  
6 term; to provide powers and duties; to provide an  
7 operative date; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 46-606, Revised Statutes Supplement,  
2   2002, is amended to read:

3           46-606. (1) The Director of Natural Resources shall  
4   collect in advance a registration fee of thirty dollars and the fee  
5   required by section 46-1224 for each water well registered under  
6   section 46-602 except as provided in subsections (2) through (5) of  
7   this section.

8           (2) For water wells permitted pursuant to the Industrial  
9   Ground Water Regulatory Act, the director shall collect in advance  
10   a registration fee of thirty dollars and the fee required by  
11   section 46-1224 for each of the first ten such water wells  
12   registered under section 46-602, and for each group of ten or fewer  
13   such water wells registered thereafter, the director shall collect  
14   in advance a registration fee of thirty dollars and the fee  
15   required by section 46-1224.

16          (3) For a series of water wells completed for purposes of  
17   installation of a ground heat exchanger for a structure for  
18   utilizing the geothermal properties of the ground, the director  
19   shall collect in advance a fee of thirty dollars for each such  
20   series and the fee required by section 46-1224.

21          (4) For water wells constructed as part of a single site  
22   plan for monitoring ground water, obtaining hydrogeologic  
23   information, or extracting contaminants from the ground, the  
24   director shall collect in advance a registration fee of thirty  
25   dollars and the fee required by section 46-1224 for each of the  
26   first five such water wells registered under section 46-602, and  
27   for each group of five or fewer such water wells registered  
28   thereafter, the director shall collect in advance a registration

1 fee of thirty dollars and the fee required by section 46-1224.  
2 However, if such water wells are a part of remedial action approved  
3 by the Department of Environmental Quality pursuant to section  
4 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this  
5 subsection shall be collected as if only one water well was being  
6 registered and the fee required by section 46-1224 shall be  
7 collected.

8 (5) (a) For a series of two or more water wells completed  
9 and pumped into a common carrier as part of a single site plan for  
10 irrigation purposes, the director shall collect in advance a  
11 registration fee of thirty dollars and the fee required by section  
12 46-1224 for each of the first two such wells registered under  
13 section 46-602.

14 (b) Any additional water wells which are part of a series  
15 registered under this subsection shall not be subject to a new well  
16 registration fee.

17 (6) The director shall remit the fees collected to the  
18 State Treasurer for credit to the appropriate fund.

19 (a) From the registration fees required by subsections  
20 (1) through (5) of this section, the State Treasurer shall credit  
21 to the Department of Natural Resources Cash Fund one-half the  
22 amount determined by the Department of Natural Resources to be  
23 necessary to pay for the costs of notices filed pursuant to section  
24 46-230, the costs of water resources update notices required by  
25 section 76-2,124, and the costs for making corrections to water  
26 well registration data authorized by subsections (6) and (7) of  
27 section 46-602 and shall credit the remainder of the registration  
28 fees required by subsections (1) through (5) of this section to the

1 Water Well Decommissioning Fund. ~~From~~

2 (b) Until January 1, 2005, from the fees required by  
3 section 46-1224, the State Treasurer shall credit to the Department  
4 of Natural Resources Cash Fund one-half the amount determined by  
5 the Department of Natural Resources to be necessary to pay for the  
6 costs of processing the notices filed pursuant to section 46-230,  
7 the costs of water resources update notices required by section  
8 76-2,124, and the costs for making corrections to water well  
9 registration data authorized by subsections (6) and (7) of section  
10 46-602 and shall credit the remainder of the fees required by  
11 section 46-1224 to the Water Well Standards and Contractors'  
12 Licensing Fund. Beginning January 1, 2005, the State Treasurer  
13 shall credit the fees required by section 46-1224 to the Water Well  
14 Standards and Contractors' Licensing Fund. This subsection  
15 terminates on December 31, 2004.

16 Sec. 2. Section 46-1233.01, Revised Statutes  
17 Supplement, 2002, is amended to read:

18 46-1233.01. Except as provided in section 46-1233, ~~after~~  
19 ~~September 6, 1991,~~ no water well shall be opened or the seal broken  
20 by any person other than an owner of the water well unless (1) the  
21 opening or the breaking of the seal is carried out by a certified  
22 water well monitoring technician or natural resources ground water  
23 technician or (2) the opening or breaking of the seal is carried  
24 out by the operator of a public water system in the course of his  
25 or her employment.

26 Sec. 3. Section 71-5301, Revised Statutes Supplement,  
27 2002, is amended to read:

28 71-5301. For purposes of the Nebraska Safe Drinking

1 Water Act, unless the context otherwise requires:

2 (1) Council means the Advisory Council on Public Water  
3 Supply;

4 (2) Director means the Director of Regulation and  
5 Licensure or his or her authorized representative;

6 (3) Designated agent means any political subdivision or  
7 corporate entity having the demonstrated capability and authority  
8 to carry out in whole or in part the Nebraska Safe Drinking Water  
9 Act and with which the Director of Regulation and Licensure has  
10 consummated a legal and binding contract covering specifically  
11 delegated responsibilities;

12 (4) Major construction, extension, or alteration means  
13 those structural changes that affect the source of supply,  
14 treatment processes, or transmission of water to service areas but  
15 does not include the extension of service mains within established  
16 service areas;

17 (5) Operator means the individual or individuals  
18 responsible for the continued performance of the water supply  
19 system or any part of such system during assigned duty hours;

20 (6) Owner means any person owning or operating a public  
21 water system;

22 (7) Person means any individual, firm, partnership,  
23 limited liability company, association, company, corporation,  
24 political subdivision, or other entity;

25 (8) Water supply system means all sources of water and  
26 their surroundings under the control of one owner and includes all  
27 structures, conduits, and appurtenances by means of which such  
28 water is collected, treated, stored, or delivered except service

1 pipes between street mains and buildings and the plumbing within or  
2 in connection with the buildings served;

3 (9) Public water system means a system for providing the  
4 public with water for human consumption through pipes or, after  
5 August 5, 1998, other constructed conveyances, if such system has  
6 at least fifteen service connections or regularly serves an average  
7 of at least twenty-five individuals daily at least sixty days per  
8 year. Public water system includes (a) any collection, treatment,  
9 storage, and distribution facilities under control of the operator  
10 of such system and used primarily in connection with such system  
11 and (b) any collection or pretreatment storage facilities not under  
12 such control which are used primarily in connection with such  
13 system. Public water system does not include a special irrigation  
14 district. A public water system is either a community water system  
15 or a noncommunity water system.

16 Service connection does not include a connection to a  
17 system that delivers water by a constructed conveyance other than a  
18 pipe if (i) the water is used exclusively for purposes other than  
19 residential uses, consisting of drinking, bathing, cooking, and  
20 other similar uses, (ii) the department determines that alternative  
21 water to achieve the equivalent level of public health protection  
22 provided by the Nebraska Safe Drinking Water Act and rules and  
23 regulations under the act is provided for residential or similar  
24 uses for drinking and cooking, or (iii) the department determines  
25 that the water provided for residential or similar uses for  
26 drinking, cooking, and bathing is centrally treated or treated at  
27 the point of entry by the provider, a pass-through entity, or the  
28 user to achieve the equivalent level of protection provided by the

1 Nebraska Safe Drinking Water Act and the rules and regulations  
2 under the act.

3 Special irrigation district means an irrigation district  
4 in existence prior to May 18, 1994, that provides primarily  
5 agricultural service through a piped water system with only  
6 incidental residential or similar use if the system or the  
7 residential or similar users of the system comply with exclusion  
8 provisions of subdivision (ii) or (iii) of this subdivision;

9 (10) Drinking water standards means rules and regulations  
10 adopted and promulgated pursuant to section 71-5302 which (a)  
11 establish maximum levels for harmful materials which, in the  
12 judgment of the Director of Regulation and Licensure, may have an  
13 adverse effect on the health of persons and (b) apply only to  
14 public water systems;

15 (11) Lead free (a) when used with respect to solders and  
16 flux means solders and flux containing not more than two-tenths  
17 percent lead and (b) when used with respect to pipe and pipe  
18 fittings means pipe and pipe fittings containing not more than  
19 eight percent lead;

20 (12) Community water system means a public water system  
21 that (a) serves at least fifteen service connections used by  
22 year-round residents of the area served by the system or (b)  
23 regularly serves at least twenty-five year-round residents;

24 (13) Noncommunity water system means a public water  
25 system that is not a community water system;

26 (14) Nontransient noncommunity water system means a  
27 public water system that is not a community water system and that  
28 regularly serves at least twenty-five of the same individuals over

1 six months per year; ~~and~~

2 (15) Small system means a public water system that  
3 regularly serves less than ten thousand individuals; and

4 (16) Probation means a disciplinary action not to exceed  
5 two years in length during which a certificate holder may continue  
6 to operate under terms and conditions fixed by the order of  
7 probation.

8 Sec. 4. Section 71-5303, Revised Statutes Supplement,  
9 2002, is amended to read:

10 71-5303. (1) No person shall operate or maintain a  
11 public water system without first obtaining a permit to operate  
12 such system from the director. No fee shall be charged for the  
13 issuance of such permit.

14 (2) The director shall inspect public water systems and  
15 report findings to the owner, publish a list of those systems not  
16 in compliance, and promote the training of and certify the  
17 competence of operators. The director may deny, revoke, suspend,  
18 or refuse renewal of a permit or certification, place a certificate  
19 holder on probation, issue administrative orders scheduling action  
20 to be taken, take emergency action as provided in section  
21 71-5304.01, and seek a temporary or permanent injunction or such  
22 other legal process as is deemed necessary to obtain compliance  
23 with the Nebraska Safe Drinking Water Act.

24 (3) The Department of Health and Human Services  
25 Regulation and Licensure may deny, revoke, suspend, or refuse to  
26 renew a permit or certification or place a certificate holder on  
27 probation for noncompliance with the act, the rules and regulations  
28 adopted and promulgated under the act, or the terms of a variance



1 or exemption issued pursuant to section 71-5310.

2 (4) Any person shall be granted, upon request, an  
3 opportunity for a hearing before the department under the  
4 Administrative Procedure Act prior to the denial or revocation of a  
5 permit or certification or the placement of a certificate holder on  
6 probation. The denial, ~~or~~ revocation, or the placement on  
7 probation by the department may be appealed, and the appeal shall  
8 be in accordance with the Administrative Procedure Act.

9 Sec. 5. Section 71-5304, Revised Statutes Supplement,  
10 2002, is amended to read:

11 71-5304. (1) The director shall adopt and promulgate  
12 necessary minimum rules and regulations governing the siting,  
13 design, construction, alteration, classification, and operation of  
14 public water systems to insure that such public water systems shall  
15 not contain amounts of chemical, radiological, physical, or  
16 bacteriological materials which are determined by the director,  
17 pursuant to section 71-5302, to be harmful to the physical health  
18 of human beings. In adopting such rules and regulations, the  
19 director shall attempt to meet the following objectives:

20 (a) Insure that facilities are physically separated, to  
21 the greatest extent possible, from water or land areas which  
22 contain high levels of materials which are harmful to humans;

23 (b) Insure that such facilities, and all parts thereof,  
24 are physically sealed so that leakage of harmful materials into the  
25 public water system itself from sources outside the system shall  
26 not occur;

27 (c) Insure that all materials which are used in the  
28 construction of a system shall not place harmful materials into the

1 public water system;

2 (d) Insure that all chemicals or other substances used to  
3 treat and purify water are free from harmful materials; and

4 (e) Insure, to the greatest extent possible, that such  
5 rules and regulations will allow uninterrupted and efficient  
6 operation of public water systems.

7 (2) The rules and regulations may contain differences and  
8 distinctions based on ~~the physical~~ one or more of the following:  
9 Physical size of the facilities, and number of persons served,  
10 system classification, source of water, treatment technique and  
11 purpose, and distribution complexity, so long as the objectives of  
12 this section are met.

13 Sec. 6. Section 71-5309, Revised Statutes Supplement,  
14 2002, is amended to read:

15 71-5309. (1) The director shall adopt and promulgate  
16 minimum necessary rules and regulations governing the  
17 qualifications of operators of public water systems. In adopting  
18 such rules and regulations, the director shall give consideration  
19 to the levels of training and experience which are required, in the  
20 opinion of the director, to insure to the greatest extent possible  
21 that the public water systems shall be operated in such a manner  
22 that (a) maximum efficiency can be attained, (b) interruptions in  
23 service will not occur, (c) chemical treatment of the water will be  
24 adequate to maintain purity and safety, and (d) harmful materials  
25 will not enter the public water system. The director may require,  
26 by rule and regulation, that the applicant for a certificate of  
27 competency successfully pass an examination on the subject of  
28 operation of a public water system. The rules and regulations, and

1 any tests so administered, may set out different requirements for  
2 ~~different sizes of~~ public water systems based on one or more of the  
3 following: Physical size of the facilities, number of persons  
4 served, system classification, source of water, treatment technique  
5 and purpose, and distribution complexity, so long as the criteria  
6 set forth in this section are followed.

7 (2) Any such certificate of competency may be denied,  
8 suspended, revoked, or refused renewal by the director for due  
9 cause. The holder of a certificate of competency may also be  
10 placed on probation by the director for due cause. Due cause shall  
11 include, but not be limited to, (a) fraud in processing the  
12 certificate, (b) habitual intoxication or addiction to the use of  
13 drugs, (c) conviction of a felony, (d) physical or mental  
14 incapacity to perform professional duties, (e) violation of any of  
15 the provisions of the Nebraska Safe Drinking Water Act or any rules  
16 or regulations adopted and promulgated under such act, and (f)  
17 failure to pay the required fee. If a certificate holder is placed  
18 on probation, his or her certificate may be revoked if the  
19 probationary requirements are not followed. Except in cases of  
20 failure to pay the required fees, no certificate of competency  
21 shall be denied, suspended, or revoked except after due notice and  
22 opportunity for a hearing. Any denial, suspension, or revocation  
23 of such certificate of competency or the placement of a certificate  
24 holder on probation may be appealed, and the appeal shall be in  
25 accordance with the Administrative Procedure Act.

26 Sec. 7. This act becomes operative on January 1, 2004.

27 Sec. 8. Original sections 46-606, 46-1233.01, 71-5301,  
28 71-5303, 71-5304, and 71-5309, Revised Statutes Supplement, 2002,

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1 are repealed.